

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.1824 OF 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order dated 23.12.2016 in I.A. No.881 of 2016 in O.S. No.370 of 2016 passed by the IX Additional Chief Judge, City Civil Court, at Hyderabad, whereby the petitioner was directed to deposit rent of Rs.2,00,000/- which was due till the month of July, 2016 on or before 30.01.2017 and continue to deposit the same during pendency of the suit.

The case of the petitioner is that he filed a suit for specific performance based on oral agreement of sale alleging that he purchased the suit schedule property for an amount of Rs.27,00,000/- and paid an amount of Rs.7,00,000/- as an advance on 15.04.2015 and he is in possession of the said property.

The respondent filed written statement along with counter claim claiming eviction of the petitioner from petition schedule premises.

While the matter stood thus, the respondent filed a petition under Order XV-A CPC (A.P. State Amendment) to direct the petitioner to pay arrears of rent Rs.2,00,000/- which was due till the Month of July, 2016 and continue to pay or deposit the same to the credit of the suit till disposal of the suit, otherwise to strike out the defence set up by the petitioner herein and order for eviction.

The petitioner did not file counter.

As seen from the material on record, initially, the petitioner was inducted into possession of the schedule property as a tenant, later he allegedly purchased the property under oral agreement of

sale. It is not his case that his tenancy was converted into ownership and he has been continuing in possession as owner of the property as per the allegations made in the plaint. Therefore, the initial relationship between the respondent and the petitioner is 'landlord' and 'tenant' and continues to exist, till the petitioner obtains a regular registered sale deed.

Strangely, the petitioner paid the rent through four cheques dated 01.09.2015 and 08.09.2015 each @ Rs.5,000/- even after the alleged oral agreement of sale. If really the petitioner is continuing in possession only in pursuance of the oral agreement, he ought not to have paid any amount towards rent.

In the absence of any material to show that he is continuing in possession of the subject property in pursuance of the oral agreement, he is liable to pay rent due to the respondent till the suit is decreed or he is evicted by due process of law allowing the counter claim filed by the respondent.

The main contention of the petitioner is that the main relief claimed in the suit cannot be granted by way of interim order placing reliance on the two Judgments of the Apex Court in **Union of India and Others v. Oswal Woollen Mills Ltd., and Others**¹ and **State through CBI v. Dawood Ibrahim Kaskar and others**².

No doubt the court cannot grant interim relief subject to permissibility under Rules 1 and 2 of Order XXXIX of CPC or under any other provision. But Order XV-A of C.P.C. (A.P. State Amendment) deals with the procedure for depositing of rent by tenant in a suit for ejectment and in suit for recovery of possession, on

¹ (1984) 2 SCC 646

² (2000) 10 SCC 438

termination of lease, or licence, with or without a prayer for recovery of arrears of rent, or licence fee, known with whatever description, the defendant, while filing his written statement, shall deposit the amount, representing the undisputed arrears, calculated upto that due, into the court and shall continue to deposit such amount, which becomes payable thereafter within one week from the date on which it becomes due, till the judgment is rendered in the suit. If the defendant commits default in making deposits, the court shall strike off the defence. On such deposit it shall be competent for the plaintiff to withdraw the same.

Thus, it is clear from the provisions of Order XV-A (A.P. State Amendment) a tenant is under obligation to deposit the arrears of rent along with the written statement and continue to deposit such amount within one week from the date on which it becomes due, till the judgment is rendered in the suit.

Initially, the petitioner was inducted into possession of the schedule premises as a tenant without producing any material to establish that he is in possession under oral agreement of sale and contended that the court cannot insist him to deposit rent. But this contention of the petitioner is without any substance and it is against the purport of Order XV-A (A.P. State Amendment).

Therefore, the direction issued by the trial court to deposit arrears of rent within a fixed time, continue to deposit of rent during the pendency of the suit, is totally inconsonance with the object of Order XV-A (A.P. State Amendment). Therefore, I find no legal infirmity, warranting interference of this court by exercising power under Article 227 of the constitution of India and the petition is

- 4 -

devoid of merits. Consequently, the civil revision petition is liable to be dismissed.

In the result, the Civil Revision Petition is dismissed. No costs.

Miscellaneous petition, if any, pending in the civil revision petition shall stand closed.

M.SATYANARAYANA MURTHY, J

20.07.2017
BV

